

RESOLUTION 04-2006

AN ORDER ABANDONING AN UNNAMED COUNTY ROAD

A petition was filed with the Board of County Commissioners of Jefferson County, Montana (hereinafter, the "Board"), by Tom D. And Lee Ann Fenske, Larry and Pam Trettin, and Thomas J. and Katherine L. Tomaskie on the 20th day of December. This petition requested the abandonment of a certain unnamed Jefferson County road in the Montana City area. The description of the subject County road is set forth as follows:

That specific County Road as established in Book 47 at Pages 378 & 379 on May 12, 1919 in the following described property:

30 foot right of way for a County Road, along the North and West Line of the East Half of the East half of the Southwest quarter of the Southeast quarter of Section 11, Township 9, Range 3.

Pursuant to Title 7, Chapter 14, Part 26, MCA, the Board made a preliminary review of the subject Petition. The Board found that the petition was submitted by all of the landowners affected by the street petitioned to be closed within Jefferson County and found that said petition described the particular street or portions thereof to be abandoned, the general route thereof, and the lands and owners affected by the proposed abandonment.

The Board further determined that the consent of the owners of the affected lands was endorsed upon the Petition by their execution of the same and that the Petition set forth the necessity for an advantage of the petitioned action.

Therefore, the Board ordered that the feasibility, desirability, and cost of granting the prayer of the Petition, and the merits or demerits of the proposed abandonment be investigated. In this regard, the Board appointed Commissioner Lythgoe and Ben Sautter, Road Supervisor, to conduct the investigation. On January 17, 2006, Commissioner Lythgoe and Ben Sautter reported that they investigated the merits of the petition and recommended that the petition be granted.

The Board considered the Petition and the findings of Commissioner Lythgoe's and Ben Sautter's investigation. Commissioner Lythgoe moved to approve the closure of said road, hereinafter described:

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The Board found that the granting of the relief sought in the Petition was in the best interest of the County, was both feasible and desirable for the use and benefit of the public, would not cause any increase in costs to the public, and could be done without detriment to the public interest.

Upon such basis, the Board determined that the Petition should be granted and that an appropriate Order should be entered.

Therefore **IT IS HEREBY ORDERED** as follows:

1. That the Petition of Tom D. And Lee Ann Fenske, Larry and Pam Trettin, and Thomas J. and Katherine L. Tomaskie is hereby granted subject to the following conditions:
 - a) that the Petitioners recognize that no owner shall ever claim or attempt to claim that any portion of said road constitutes a “lot” or “parcel”, distinct from the owners adjoining lot or property, upon which the separate residence or structure requiring water and sewer facilities can be constructed, and;
 - b) that any utility easements now existing on the right-of-way will be continued unaltered and that access by utility company employees for the maintenance of the equipment shall be allowed, and;
 - c) that Jefferson County shall retain full utility right, if any.

2. That the portion of the said Jefferson County road which is abandoned by this Order is more particularly described as:

That specific County Road as established in Book 47 at Pages 378 & 379 on May 12, 1919 in the following described property:

30 foot right of way for a County Road, along the North and West Line of the East Half of the East half of the Southwest quarter of the Southeast quarter of Section 11, Township 9, Range 3.

DATED this 17th day of January, 2006.

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

TOMAS E. LYTHGOE, CHAIR

CHUCK NOTBOHM, COMMISSIONER

KEN WEBER, COMMISSIONER